

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 17-00965-JB

KIRBY CLEVELAND,

Defendant.

**ORDER GRANTING KIRBY CLEVELAND'S MOTION FOR DISCLOSURE
OF GRAND JURY AND PETIT JURY DATA (DOC. 63)**

THIS MATTER having come before the Court upon Defendant Kirby Cleveland's Motion for Disclosure of Grand Jury and Petit Jury Data (Doc. 63), filed May 14, 2018, and the Court being fully advised in the circumstances:

IT IS HEREBY ORDERED that Defendant Kirby Cleveland is entitled to the requested information under 28 U.S.C. § 1867(a) and (f) from the Clerk's Office of the United States District Court for the District of New Mexico (hereinafter "Clerk's Office") concerning the procedures and data used to create grand jury arrays and petit jury panels in the Northern Division.

IT IS FURTHER ORDERED that all confidential information that could be used to identify any individual juror not be disclosed by counsel for the Government or Mr. Cleveland the.

IT IS FURTHER ORDERED that Defendant Kirby Cleveland's Motion for Disclosure of Grand Jury and Petit Jury data (Doc. 43) is GRANTED; the Clerk's office must provide to Mr. Cleveland, through defense counsel, their designated expert demographer, the demographer's staff, defense counsel's paralegal and/or other assistants:

- (1) all information¹ concerning members of all grand and petit jury venires who actually appeared for service that were drawn from the master jury wheel from which the Northern Division grand jury in this case was selected (the grand jury issued its indictment on April 12, 2017);
- (2) all information concerning members of all grand and petit jury venires who actually appeared for service that were drawn from the master jury wheel from which the petit jury will be selected in this case (trial is scheduled to begin April 6, 2020);

In addition, as to the two master wheels described above, the Clerk must disclose:

- (3) all information at the Clerk's office regarding jurors summonsed for jury duty who did not appear for jury selection ("no shows");
- (4) all information concerning the jurors who were deemed unqualified, including the reason for their disqualification;
- (5) All statistical information concerning jurors deemed qualified for jury service;

¹ The phrase "all information" refers to all statistical or demographic information regarding jurors including race, color, gender, religion, sex, national origin, or economic status or any other demographic statistics compiled for the group without revealing the identification information of any individual juror. The parties have agreed that the Clerk's office must redact personal identification information, including names and addresses, using any means available before the requested information is disclosed to Defendants.

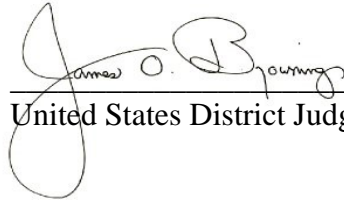
- (6) all statistical analysis of race, ethnicity, and gender for individual petit jury pools drawn from qualified jury wheels;
- (7) all statistical analysis of race, ethnicity, and gender for each grand jury array drawn from the qualified jury wheels;
- (8) information concerning those jurors who were excused from service on grand jury arrays or petit jury pools and the reason each individual was excused;
- (9) access to all information—aside from identification information—in the juror questionnaires returned to the Court for processing;
- (10) access to all information concerning the rosters of jurors who actually appeared for jury selection during the life of the wheel.

Mr. Cleveland is to coordinate his specific requests for information under 28 U.S.C. § 1867(f) with the Clerk's office in a manner that minimizes the burden and expense of producing the information necessary for the defense to prepare a motion challenging any particular jury composition.

IT IS FURTHER ORDERED that the Clerk's office shall assume all reasonable costs it incurs as a result of producing copies of available information in compliance with this order, but that the Clerk's office may petition the Court to have the defense assume any extraordinary costs incurred in complying with this order;

IT IS FINALLY ORDERED that upon receipt of the requested information and a showing of good cause and need, Mr. Cleveland may seek disclosure of additional information not specified in this order, and the United States will have the opportunity to respond to any additional requests for grand jury or petit jury data. In any case, the parties are prohibited from releasing or sharing any information provided under this Order to anyone not involved in the

litigation of the jury challenge(s) in this case, and will abide by any additional protective order the Court deems prudent to enter.


United States District Judge